

Brooke B. Murphy
Talia G. Loucks
MATOVICH, KELLER & MURPHY, P.C.
2812 First Avenue North, Suite 225
P.O. Box 1098
Billings, MT 59101
Phone: (406) 252-5500
bmurphy@mkmfir.com
tloucks@mkmfir.com

Attorneys for Defendant Safeco Ins. Co. of America

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLING DIVISION**

MARILYN MARCHINEK,

Plaintiff,

- v -

SAFECO INSURANCE COMPANY OF
AMERICA,

Defendant.

Cause No.: CV _____

**NOTICE OF REMOVAL TO
FEDERAL DISTRICT COURT
PURSUANT TO 28 U.S.C. § 1446**

Defendant Safeco Insurance Company of America, issues this Notice of Removal of Cause No. DV-17-0420 from the Thirteenth Judicial District Court, Yellowstone County, Montana, to the United States Federal Court, District of Montana, Billings Division. As grounds for removal, Defendant alleges as follows:

1. The above entitled action was commenced on or about March 28, 2017, by the filing of a Complaint in the District Court of the Thirteenth Judicial District Court of the State of Montana, in and for the County of Yellowstone. A First Amended Complaint and Demand for Jury Trial was filed on April 24, 2017.

2. Safeco Insurance Company of America was formally served with the First Amended Complaint and Summons by service through the Montana Insurance Commissioner's office. Service was effectuated by correspondence dated May 1, 2017, and sent to Safeco Insurance Company of America through the U.S. Mail on that date.

3. At the commencement of the action, Safeco Insurance Company of America was a New Hampshire corporation and a citizen of New Hampshire, with its principal place of business at 175 Berkeley Street, Boston, Massachusetts. Upon information and belief, and upon the allegations of the First Amended Complaint, Plaintiff was a Montana citizen residing in Billings, Yellowstone County, Montana at the time the action was filed in state court. Thus this is a suit between citizens of different states.

4. The matter in controversy, according to the allegations of the Complaint, may exceed, exclusive of interest and costs, the sum of \$75,000.00.

5. The federal district court has original jurisdiction of the action pursuant to 28 U.S.C. §1332.

6. Removal is timely pursuant to 28 U.S.C. §1446(b), less than thirty (30) days having elapsed since receipt by Defendant of the initial pleading.

7. This action is properly removed pursuant to 28 U.S.C. § 1441(a), and written notice of the filing of this Notice of Removal is being served this date on Plaintiff's counsel of record pursuant to 28 U.S.C. § 1446(d).

8. A notice of removal is being filed this date with the Yellowstone County Clerk of District Court, 217 North 27th Street, Billings, Montana 59101.

9. Attached hereto as Exhibit "A" is a copy of the Complaint, Summons, First Amended Complaint, and First Amended Summons filed and issued out of the District Court of the Thirteenth Judicial District of the State of Montana in and for the County of Yellowstone, representing all process, pleadings and orders to the best of the undersigned's knowledge and belief.

WHEREFORE, Defendant prays that this Court accept this Notice for Removal and assume jurisdiction of the above entitled cause.

DATED this 25th day of May, 2017.

MATOVICH, KELLER, & MURPHY, P.C.

By: /s/ Brooke B. Murphy
Brooke B. Murphy
Talia G. Loucks
Matovich, Keller & Murphy, P.C.

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of May, 2017, a copy of the foregoing was served on the following persons by the following means:

<u>1,2</u>	CM/ECF	<u> </u>	Fax
<u> </u>	Hand Delivery	<u> </u>	E-Mail
<u>2</u>	Mail	<u> </u>	Overnight Delivery Service

1. Clerk, U.S. District Court

2. Attorneys for Plaintiff

Elizabeth M. Varela
Harris, Gannett & Varela, PLLC
3936 Avenue B, Suite D
Billings, MT 59102

MATOVICH, KELLER & MURPHY P.C.

By: /s/ Brooke B. Murphy
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Matovich, Keller & Murphy, P.C.

Attorneys for Defendant